



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: **200830025**  
Release Date: 7/25/08  
Date: May 2, 2008  
No Third Party Contact  
Index (UIL) No.: 501.15-00

Contact Person:  
Identification Number:  
Telephone Number:  
Employer Identification Number:

Legend:

B =  
C =  
D =  
E =  
F =  
x =

Dear

This is in reply to your ruling request dated November 22, 2006, regarding the applicability of section 501(c)(15) of the Internal Revenue Code.

Ruling Request:

You requested that you be treated as an insurance company exempt under section 501(c)(15) of the Code.

Facts:

You are a mutual property and casualty insurance company formed on B to provide fire and extended insurance for property owners in C. You have D policies in force and you add, on average, three to four new policies each year. Currently, you have a total of E policyholders.

You represent that your premium income is less than \$350,000; however, such premiums do not exceed 50 percent of your gross receipts. The remaining gross receipts are from investment income.

You also represent that it has been the practice and philosophy of the Board of Directors that you distribute your earnings, after the payment of minimal costs of operations, to the community. The mode of achieving this philosophy is through making charitable contributions to various local community organizations exempt under section 501(c)(3) of the Code. You state that you have given over \$x annually for the past five years to F, a public charity.

Law and Analysis:

For years prior to January 1, 2004, an insurance company other than life is exempt pursuant to section 501(c)(15)(A) of the Code if the net written premiums for the taxable year do not exceed \$350,000. If an entity is a part of a consolidated group, section 501(c)(15)(B) provides that all net written premiums (or direct written premiums) of the members of the group are aggregated to determine whether the insurance company meets the requirements of section 501(c)(15)(A).

The Pension Funding Equity Act, P.L. 108-218 (the "Act") was enacted April 10, 2004. Section 206 of the Act made several changes to section 501(c)(15) of the Code, that in general, are effective for taxable years beginning after December 31, 2003. The Act states the following: An insurance company (as defined in section 816(a)), other than a life insurance company, is described in section 501(c)(15), and is therefore exempt from tax under section 501(a), if its gross receipts for the taxable year do not exceed \$600,000 and more than 50 percent of those gross receipts consist of premiums. Section 501(c)(15)(A)(i). A non-life mutual insurance company not meeting the requirements of the previous sentence is nonetheless described in section 501(c)(15) if its gross receipts for the taxable year do not exceed \$150,000 and more than 35 percent of those gross receipts consist of premiums. Section 501(c)(15)(A)(ii). Amounts received by all members of the insurance company's controlled group including foreign and tax-exempt companies) are taken into account for purposes of these tests. Sections 501(c)(15)(B) and (C).

You state the new Act had a direct impact on your income tax status. Under previous law, you, as a mutual fire and casualty company, were exempt as you did not have more than \$350,000 of net written premiums in any given year. The new Act, however, made changes to the definition of an insurance company; and based on the new definition, you state you are no longer considered exempt since your premium income is less than 50 percent of your total gross receipts.

Based on the above facts and the new Act, we are unable to interpret the statutory enactment contrary to its plain meaning.

Conclusion:

We conclude that you can not be treated as an insurance company exempt under section 501(c)(15) of the Code after December 31, 2003, if your premium income is less than 50 percent of your gross receipts as defined under the new Act.

You are therefore required to file Form 1120PC for tax years beginning after December 31, 2003 and thereafter.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Robert C. Harper, Jr.  
Manager, Exempt Organizations  
Technical Group 3

Enclosure  
Notice 437